

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Justin Andrew Bruntjen Esq.,

Civil No. 20-cv-1832 (MJD/HB)

Plaintiff,

v.

ORDER

Raffles Van Exel,
White, Wiggins & Barnes, LLP,
Ward Allen White, IV, and
Kennedy Lowell Barnes,

Defendants.

This matter is before the Court on Magistrate Judge Bowbeer's *sua sponte* Report and Recommendation dated February 28, 2022. (Doc. No. 101.)

The complaint in this matter was filed and a summons was issued as to Defendant Raffles Van Exel on August 24, 2020. More than a year has elapsed since suit was filed and Van Exel has never been served. Federal Rule of Civil Procedure 4(m) provides that if a defendant has not been served within 90 days, "the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m). In this case, the magistrate judge

formerly assigned to this case gave Plaintiff two extensions of time to serve Van Exel, but service was not made. (See Apr. 27, 2021 Order at 5 (Doc. No. 53); July 6, 2021 Order at 2 (Doc. No. 58).) Magistrate Judge Bowbeer put Plaintiff on notice by her February 18, 2022 Order (Doc. No. 100) that if proof of effective service on Van Exel was not filed by February 25, 2022, she would recommend that the action against Van Axel be dismissed without prejudice. Plaintiff has not filed proof of service and nothing indicates Van Exel has ever been served. Magistrate Judge Bowbeer recommended dismissing the action against Van Exel. (Doc. No. 101.) No party filed objections to the Report and Recommendation.

Based on its review of the record, the Court concludes that the matter is appropriate for summary disposition.

Accordingly, based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED THAT:**

1. The action be **DISMISSED WITHOUT PREJUDICE** against Defendant Raffles Van Exel for failure to effect proper service within the time required by Federal Rule of Civil Procedure 4(m).

Dated: March 15, 2022

s/Michael J. Davis
MICHAEL J. DAVIS
United States District Court